

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ella Mintz	Team: Squad #12	CCRB Case #: 201902522	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 03/23/2019 2:38 AM	Location of Incident: Stairwell at the 43rd Street and Eight Avenue exit of the 42nd Street- Port Authority Subway Station	Precinct: 14	18 Mo. SOL 9/23/2020	EO SOL 5/10/2021	
Date/Time CV Reported Sat, 03/23/2019 5:16 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 03/25/2019 8:31 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jae Choi	06059	956523	TB M/TF
2. POM Jeffery Rodriguez	14033	957092	TB M/TF
3. POM Yianni Tsihlas	14843	956308	TB M/TF

Officer(s)	Allegation	Investigator Recommendation
A.POM Jeffery Rodriguez	Force: Police Officer Jeffery Rodriguez used physical force against § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
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§ 87(4-b), § 87(2)(g)		

Case Summary

On March 23, 2019, § 87(2)(b) filed this complaint on the CCRB's website.

On March 23, 2019, at approximately 2:38 AM, Police Officers Jae Choi, Jeffery Rodriguez, and Yianni Tsihlas, all assigned to the Transit Bureau Manhattan Task Force escorted § 87(2)(b) out of the 42nd Street Port Authority subway station in Manhattan. While at the stairwell, located at the West 43rd Street and Eighth Avenue exit, PO Rodriguez allegedly forcibly ripped several hairs off of § 87(2)(b)'s mustache (**Allegation A- Force: § 87(2)(g)**). § 87(2)(b) was not arrested or summonsed as a result of this incident.

§ 87(4-b), § 87(2)(g)

The investigation obtained one BWC file from PO Rodriguez that captures the beginning of his interaction with § 87(2)(b) but does not capture the portion of this incident where the force was alleged to have occurred (Board Review 01, summary at Board Review 02).

The investigation also obtained footage from the MTA; this footage captures the officers escorting § 87(2)(b) out of a gate but as there are no cameras on the stairwell, it does not capture the portion of this incident where the force was alleged to have occurred (The full video can be found in Board Reviews 03 and 04. Subclips relevant to this incident can be found in Board Reviews 05 and 06. A video summary is located in Board Review 07).

Findings and Recommendations

Allegation A-Force: Police Officer Jeffery Rodriguez used physical force against § 87(2)(b)

It is undisputed that on Saturday, March 23, 2019, at approximately 2:07 AM, PO Choi, PO Rodriguez, and PO Tsihlas approached § 87(2)(b) while he was sleeping on the floor of the southbound platform at 42nd Street - Port Authority station. The officers asked § 87(2)(b) if he was okay and where he was going. § 87(2)(b) told the officers that he was taking the E train and the officers left.

PO Rodriguez's BWC captures the portion of the incident where the officers initially encounter § 87(2)(b) (Board Review 01, summary located at Board Review 02). § 87(2)(b) is lying down on the floor. The officers assist him in sitting up and then PO Rodriguez turns off his BWC. A screenshot taken at 06:08:38 in the internal timestamp (which is approximately four hours off from the actual time of occurrence) appears to show § 87(2)(b)'s mustache – which is a handlebar moustache that curls at the end – in good condition (Board Review 11).

§ 87(2)(b) testified in his CCRB statement, that at approximately 2:38AM, approximately thirty minutes after the officers initially approached him, they approached him again and accused him of not waiting for a train but of wanting to stay at the station (Board Review 08). An unidentified officer wearing plainclothes told the officers that § 87(2)(b) needed to be ejected. The officers picked § 87(2)(b) up and carried him out of the platform. The officers walked § 87(2)(b) through the emergency exit door. The officers then carried him up the stairwell of the West 43rd Street and 8th Avenue southwest exit. PO Choi, PO Rodriguez, and PO Tsihlas carried § 87(2)(b) about halfway up the stairwell. PO Choi and Tsihlas held § 87(2)(b) against the wall of the stairwell. PO Rodriguez grabbed the back of § 87(2)(b)'s head with his right hand and reached over with his left hand and ripped off about half of § 87(2)(b)'s mustache, specifically the twirl portion of the right side of his mustache. Either PO Choi or PO Tsihlas said something and PO Rodriguez responded, "Whatever. He's not going to remember anyway."

§ 87(2)(b) attached a photo of the damage to his mustache to his online complaint (Board Review 09). The photo shows scabbing to the hair follicle area. According to image information, the photo was taken on March 23, 2019 at 9:04 AM (Board Review 10).

MTA footage obtained from the 42nd Street Port Authority subway station shows PO Choi, PO Tsihlas and PO Rodriguez escorting § 87(2)(b) out of the gate at the West 43rd Street and Eighth Avenue exit of the station (Board Review 05, Summary in Board Review 07) at 2:35AM. At 2:40AM, the officers return through the gate without § 87(2)(b) (Board Review 06, summary in Board Review 07). The footage does not capture the stairwell.

On September 9, 2019, § 87(2)(b) viewed the aforementioned MTA footage and identified PO Rodriguez as the officer who pulled out his mustache (Board Review 12).

In their CCRB interviews, PO Choi, PO Rodriguez, and PO Tsihlas stated that they recalled the first portion of the incident but that they did not recall escorting § 87(2)(b) out of the station (Board Review 13, 14, 15). The officers were all shown the MTA footage of the incident; it did not refresh their memories of escorting § 87(2)(b) out of the subway station. None of the officers could identify the officer in plainclothes shown in the MTA footage. The officers did not recall having any interaction with § 87(2)(b) on the stairwell and denied that PO Rodriguez ever pulled § 87(2)(b)'s mustache or made any physical contact with his mustache.

Requests for a TRI report and Transit Ejection Report prepared in connection with this incident were returned with negative results.

Based on the photographic evidence, the investigation can conclusively determine that at approximately 2:07AM on March 23, 2019, § 87(2)(b)'s mustache was intact. Photographic evidence provided by § 87(2)(b) indicates that at 9:04AM on March 23, 2019, there was visible damage to his facial area. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint in which § 87(2)(b) has been a party.
- Police Officer Jeffery Rodriguez has been a member of service for five years and has been a subject in one CCRB complaint and five allegations, none of which have been substantiated. § 87(2)(g)

Mediation, Criminal, and Civil Histories

- § 87(2)(b) declined to mediate this complaint.
- As of November 15, 2019, the New York City Office of the Comptroller has no record of a notice of claim filed in regards to this incident (Board Review 16).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions of history in New York City (Board Review 17).

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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